

Calendar No. 431

95TH CONGRESS
1ST SESSION

H. R. 7738

[Report No. 95-466]

IN THE SENATE OF THE UNITED STATES

JULY 13 (legislative day, MAY 18), 1977

Read twice and referred to the Committee on Banking, Housing, and Urban
Affairs

OCTOBER 3 (legislative day, SEPTEMBER 22), 1977

Reported by Mr. STEVENSON, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

With respect to the powers of the President in time of war or
national emergency.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE I—AMENDMENTS TO THE TRADING

4 WITH THE ENEMY ACT

5 REMOVAL OF NATIONAL EMERGENCY POWERS UNDER THE

6 TRADING WITH THE ENEMY ACT

7 SEC. 101. (a) Section 5 (b) (1) of the Trading With
8 the Enemy Act is amended by striking out “or during any
9 other period of national emergency declared by the Presi-
10 dent” in the text preceding subparagraph (A)

(b) Notwithstanding the amendment made by subsection (a), the authorities conferred upon the President by section 5 (b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, may continue to be exercised with respect to such country, except that, unless extended, the exercise of such authorities shall terminate (subject to the savings provisions of the second sentence of section 101 (a) of the National Emergencies Act) at the end of the two-year period beginning on the date of enactment of the National Emergencies Act. The President may extend the exercise of such authorities for one-year periods upon a determination of each such extension that the exercise of such authorities with respect to such country for another year is in the national interest of the United States.

(c) The termination and extension provisions of subsection (b) of this section supercede the provisions of section 101(a) and of title II of the National Emergencies Act to the extent that the provisions of subsection (b) of this section are inconsistent with those provisions.

~~(e)~~(d) Paragraph (1) of section 502 (a) of the National Emergencies Act is repealed.

WARTIME AUTHORITIES

SEC. 102. Section 5 (b) (1) of the Trading With the Enemy Act is amended—

1 (1) in the text preceding subparagraph (A), by
2 striking out “or otherwise,” the first time it appears;
3 and

4 (2) by striking out “; and the President may, in
5 the manner hereinabove provided, take other or further
6 measures not inconsistent herewith for the enforcement
7 of this subdivision”.

8 CRIMINAL PENALTIES

9 SEC. 103. (a) Section 16 of the Trading With the
10 Enemy Act is amended by striking out “\$10,000” and in-
11 serting in lieu thereof “\$50,000”.

12 (b) Section 5 (d) (3) of such Act is amended by strik-
13 ing out the second sentence.

14 TITLE II—INTERNATIONAL EMERGENCY

15 ECONOMIC POWERS

16 SHORT TITLE

17 SEC. 201. This title may be cited as the “International
18 Emergency Economic Powers Act”.

19 SITUATIONS IN WHICH AUTHORITIES MAY BE EXERCISED

20 SEC. 202. (a) Any authority granted to the President
21 by section 203 may be exercised to deal with any unusual
22 and extraordinary threat, which has its source in whole or
23 substantial part outside the United States, to the national
24 security, foreign policy, or economy of the United States,
25 if the President declares a national emergency with respect
26 to such threat.

1 (b) The authorities granted to the President by section
 2 203 may only be exercised to deal with an unusual and ex-
 3 traordinary threat with respect to which a national emer-
 4 gency has been declared for purposes of this title and may
 5 not be exercised for any other purpose. Any exercise of such
 6 authorities to deal with any new threat shall be based on a
 7 new declaration of national emergency which must be with
 8 respect to such threat.

9 GRANT OF AUTHORITIES

10 SEC. 203. (a) (1) At the times and to the extent speci-
 11 fied in section 202, the President may, under such regulations
 12 as he may prescribe, by means of instructions, licences, or
 13 otherwise—

14 (A) investigate, regulate, or prohibit—

15 (i) any transactions in foreign exchange,

16 (ii) transfers of credit or payments between,
 17 by, through, or to any banking institution, to the
 18 extent that such transfers or payments involve any
 19 interest of any foreign country or a national thereof,

20 (iii) the importing or exporting of currency
 21 or securities; and

22 (B) investigate, regulate, direct and compel, nul-
 23 lify, void, prevent or prohibit, any acquisition, holding,
 24 withholding, use, transfer, withdrawal, transportation,
 25 importation or exportation of, or dealing in, or exercis-

1 ing any right, power, or privilege with respect to, or
2 transactions involving, any property in which any for-
3 eign country or a national thereof has any interest;
4 by any person, or with respect to any property, subject to
5 the jurisdiction of the United States.

6 (2) In exercising the authorities granted by paragraph
7 (1), the President may require any person to keep a full
8 record of, and to furnish under oath, in the form of reports or
9 otherwise, complete information relative to any act or trans-
10 action referred to in paragraph (1) either before, during,
11 or after the completion thereof, or relative to any interest
12 in foreign property, or relative to any property in which any
13 foreign country or any national thereof has or has had any
14 interest, or as may be otherwise necessary to enforce the
15 provisions of such paragraph. In any case in which a report
16 by a person could be required under this paragraph, the
17 President may require the production of any books of ac-
18 count, records, contracts, letters, memorandums, or other
19 papers, in the custody or control of such person.

20 (3) Compliance with any regulation, instruction, or
21 direction issued under this title shall to the extent thereof
22 be a full acquittance and discharge for all purposes of the
23 obligation of the person making the same. No person shall
24 be held liable in any court for or with respect to anything
25 done or omitted in good faith in connection with the ad-

1 ministration of, or pursuant to and in reliance on, this title,
2 or any regulation, instruction, or direction issued under this
3 title.

4 (b) The authority granted to the President by this
5 section does not include the authority to regulate or prohibit,
6 directly or indirectly—

7 (1) any postal, telegraphic, telephonic, or other
8 personal communication, which does not involve a trans-
9 fer of anything of value; or

10 (2) ~~uncompensated transfers of anything of value~~
11 ~~except to the extent that the President determines that~~
12 ~~such transfers (A) would seriously impair his ability~~
13 ~~to deal with the unusual and extraordinary threat which~~
14 ~~is the basis for the exercise of authorities under this title,~~
15 *donations, by persons subject to the jurisdiction of the*
16 *United States, of articles, including food, clothing, and*
17 *medicine, intended to be used solely to relieve human*
18 *suffering, except to the extent that the President deter-*
19 *mines that such donations (A) would seriously impair*
20 *his authority to deal with any national emergency de-*
21 *clared under section 202 of this title, (B) are in re-*
22 *sonse to coercion against the proposed recipient or*
23 *donor, or (C) would endanger Armed Forces of the*
24 *United States which are engaged in hostilities or are*

1 in a situation where imminent involvement in hostilities
2 is clearly indicated by the circumstances.

3 CONSULTATION AND REPORTS

4 SEC. 204. (a) The President, in every possible instance,
5 shall consult with the Congress before exercising any of the
6 authorities granted by this title and shall consult regularly
7 with the Congress so long as such authorities are exercised.

8 (b) Whenever the President exercises any of the author-
9 ities granted by this title, he shall immediately transmit to the
10 Congress a report specifying—

11 (1) the circumstances which necessitate such exer-
12 cise of authority;

13 (2) why the President believes those circumstances
14 constitute an unusual and extraordinary threat, which
15 has its source in whole or substantial part outside the
16 United States, to the national security, foreign policy, or
17 economy of the United States;

18 (3) the authorities to be exercised and the actions
19 to be taken in the exercise of those authorities to deal
20 with those circumstances;

21 (4) why the President believes such actions are
22 necessary to deal with those circumstances; and

23 (5) any foreign countries with respect to which

1 such actions are to be taken and why such actions are to
2 be taken with respect to those countries.

3 (c) At least once during each succeeding six-month
4 period after transmitting a report pursuant to subsection (b)
5 with respect to an exercise of authorities under this title, the
6 President shall report to the Congress with respect to the
7 actions taken, since the last such report, in the exercise of
8 such authorities, and with respect to any changes which
9 have occurred concerning any information previously fur-
10 nished pursuant to paragraphs (1) through (5) of sub-
11 section (b).

12 (d) The requirements of this section are supplemental
13 to those contained in title IV of the National Emergencies
14 Act.

15 AUTHORITY TO ISSUE REGULATIONS

16 SEC. 205. The President may issue such regulations,
17 including regulations prescribing definitions, as may be
18 necessary for the exercise of the authorities granted by this
19 title.

20 CONGRESSIONAL REVIEW OF REGULATIONS

21 SEC. 206. ~~(a) Any regulation issued under this title~~
22 ~~(including any modification of a previously issued regula-~~
23 ~~tion)~~ shall be reported to the Congress not later than the
24 date on which it becomes effective.

25 ~~(b) (1) If, within the period described in paragraph~~

1 ~~(2)~~, the Congress adopts a concurrent resolution disapprov-
 2 ing, in whole or in part, a regulation reported pursuant to
 3 subsection ~~(a)~~, then such regulation shall immediately cease
 4 to be effective to the extent it is disapproved.

5 ~~(2)~~ The period referred to in paragraph ~~(1)~~ is the
 6 thirty-day period ~~(excluding any day on which either House~~
 7 ~~of Congress is not in session)~~ beginning on the date on
 8 which the regulation is reported to the Congress pursuant to
 9 subsection ~~(a)~~ :

10 (e) Disapproval of a regulation by the Congress under
 11 subsection ~~(b)~~ shall not affect the validity of such regulation
 12 ~~(or any action taken under such regulation)~~ during the
 13 period it was in effect.

14 PENALTIES

15 SEC. 207. 206. (a) A civil penalty of not to exceed
 16 \$10,000 may be imposed on any person who violates any
 17 license, order, or regulation issued under this title.

18 (b) Whoever willfully violates any license, order, or
 19 regulation issued under this title shall, upon conviction, be
 20 fined not more than \$50,000, or, if a natural person, may
 21 be imprisoned for not more than ten years, or both; and any
 22 officer, director, or agent of any corporation who knowingly
 23 participates in such violation may be punished by a like
 24 fine, imprisonment, or both.

SAVINGS PROVISION

2 SEC. 208. 207. (a) (1) Except as provided in subsec-
3 tion (b), notwithstanding the termination pursuant to the
4 National Emergencies Act of a national emergency declared
5 for purposes of this title, any authorities granted by this
6 title, which are exercised on the date of such termination on
7 the basis of such national emergency to prohibit transactions
8 involving property in which a foreign country or national
9 thereof has any interest, may continue to be so exercised to
10 prohibit transactions involving that property if the President
11 determines that the continuation of such prohibition with
12 respect to that property is necessary on account of claims
13 involving such country or its nationals.

(2) Notwithstanding the termination of the authorities described in section 101 (b) of this Act, any such authorities, which are exercised with respect to a country on the date of such termination to prohibit transactions involving any property in which such country or any national thereof has any interest, may continue to be exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country or its nationals.

(b) The authorities described in subsection (a) (1) may not continue to be exercised under this section if the

1 national emergency is terminated by the Congress by con-
 2 current resolution pursuant to section 202 of the National
 3 Emergencies Act and if the Congress specifies in such
 4 concurrent resolution that such authorities may not continue
 5 to be exercised under this section.

6 (c) (1) The provisions of this section are supplemental
 7 to the savings provisions of paragraphs (1), (2), and (3)
 8 of section 101 (a) and of paragraph (A), (B), and (C) of
 9 section 202 (a) of the National Emergencies Act.

10 (2) The provisions of this section supersede the ter-
 11 mination provisions of section 101 (a) and of title II of the
 12 National Emergencies Act to the extent that the provisions
 13 of this section are inconsistent with these provisions.

14 (d) If the President uses the authority of this section to
 15 continue prohibitions on transactions involving foreign prop-
 16 erty interests, he shall report to the Congress every six
 17 months on the use of such authority.

18 *SEC. 208. If any provision of this Act is held invalid,*
 19 *the remainder of the Act shall not be affected thereby.*

20 TITLE III—AMENDMENTS TO THE EXPORT

21 ADMINISTRATION ACT OF 1969

22 AUTHORITY TO REGULATE EXTRATERRITORIAL EXPORTS

23 SEC. 301. (a) The first sentence of section 4 (b) (1) of
 24 the Export Administration Act of 1969 is amended to read
 25 as follows: "To effectuate the policies set forth in section 3

1 of this Act, the President may prohibit or curtail the ex-
2 portation, except under such rules and regulations as he
3 shall prescribe, of any articles, materials, or supplies, includ-
4 ing technical data or any other information, subject to the
5 jurisdiction of the United States or exported by any person
6 subject to the jurisdiction of the United States.”.

7 (b) (1) Section 4 (b) (2) (B) of such Act is
8 amended—

9 (A) in the first sentence, by striking out “from the
10 United States, its territories and possessions,”; and

11 (B) in the second sentence—

12 (i) by striking out “from the United States”;
13 and

14 (ii) by striking out “produced in the United
15 States” and inserting in lieu thereof “which would
16 be subject to such controls”.

17 (2) Section 6 (c) (2) (A) of such Act is amended by
18 striking out “from the United States, its territories or pos-
19 sessions,”.

Passed the House of Representatives July 12, 1977.

Attest: EDMUND L. HENSHAW, JR.,

Clerk.

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